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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/016,544	12/11/2001	Ronald Wayne Ausen	55947US002	7670
32692	7590	11/16/2004	EXAMINER	
3M INNOVATIVE PROPERTIES COMPANY			FISCHER, JUSTIN R	
PO BOX 33427			ART UNIT	
ST. PAUL, MN 55133-3427			PAPER NUMBER	
			1733	

DATE MAILED: 11/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/016,544

Applicant(s)

AUSEN ET AL

Examiner

Justin R Fischer

Art Unit

1733

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 August 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 4-51 is/are pending in the application.
- 4a) Of the above claim(s) 4-17 and 36-51 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,2,21,22 and 25 is/are allowed.
- 6) ☒ Claim(s) 18-20,23,24 and 26-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 18-20, 23, 26, 27, 31, 33-35, 52, 54, and 56 are rejected under 35 U.S.C. 102(b) as being anticipated by Ang (US 4,537,809, of record). Ang is applied in the same manner as set forth in the Non-Final rejection mailed on May 18, 2004 (Paragraph 5).

Ang is directed to a method of producing an adhesive laminate comprising the steps of applying a layer of adhesive 16 to a base web 18, and applying a backing layer 14 to the adhesive coated base web, wherein the top of portion of the backing layer defines the top portion of the adhesive laminate (film structure). At this point, the top portion or backing layer is scored or cut using a knife or laser and the laminate is flexed or stretched in order to rupture the backing layer in the vicinity of the score lines (Column 2, Lines 30-50). As depicted in Figures 2 and 3, the adhesive becomes exposed after the laminate is flexed or stretched. It is noted that the bending or flexing is seen to constitute a stretching step in that the scored lines are tensioned and thus weakened, leading to their rupturing (Column 10, Lines 50-56). Furthermore, regarding the removal of the bending force, it is evident that a rupture or crack is present due to said bending force and thus, there is a slight gap or separation between the relevant

regions of the top portion. Thus, they do not "rejoin to their original position" (the crack or rupture is not reversible- there is always going to be a slight amount of separation such that the separated elements can be viewed as not rejoining to their original positions, that being formed as an integral layer that defines the top portion).

With respect to claim 19, it is evident from Figures 1 and 5 that a plurality of cuts are formed in the top portion of the adhesive laminate and after applying a bending force, the regions adjacent each side of the cuts is seen to constitute a plurality of islands.

As to claims 26 and 56, Ang states that the depth of the scored segment can be equal to or slightly greater than the thickness of the top portion or backing sheet (Column5, Lines 19-25).

Regarding claim 27, as best depicted in Figures 1 and 3, the cutting is included in more than one direction (machine direction and direction that is perpendicular to machine direction).

With respect to claim 31, the film structure or adhesive laminate of Ang comprises a base web, an adhesive layer, and a backing sheet- this assembly is seen to constitute a multi-layer structure.

As to claims 33 and 34, the bending or stretching of Ang is seen to constitute a simultaneous biaxial stretching step.

Regarding claim 35, the bending or flexing of Ang is inelastic in that the stretched components do not return to their original shape (scored regions are ruptured and removed).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 24 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ang and further in view of Duncan (US 4,626,460, of record). Ang and Duncan are applied in the same manner as set forth in the Non-Final Rejection mailed on May 18, 2004 (Paragraph 7).

As noted in the previous paragraph, Ang discloses a method of forming an adhesive laminate comprising a base web 18, a pressure adhesive layer 16, and a backing 14, wherein said backing can be formed of a fibrous material or a polymer film (Column 3, Line 42 – Column 4, Line 4). Ang further notes that the adhesive laminate has a plurality of uses, such as label stock, decorative adhesive sheeting, and adhesive tapes. In this instance, though, Ang is completely silent as to how the individual layers are formed into the laminate. One of ordinary skill in the art at the time of the invention would have found it obvious to coextrude the layers since this technique is extremely well known and extensively used in the manufacture of similar adhesive laminates, as shown for example by Duncan (Column 1, Lines 35-61). This method provides the advantage of reducing the number of manufacturing steps (only a single coextrusion step required). It is noted that the adhesive laminate of Duncan, in an analogous

manner to Ang, has a use as a label stock product and furthermore, the backing layer or release layer of Duncan is similarly formed of a peelable or removable, polymer film. Lastly, the backing layer of Ang is seen to constitute the "masking layer" of the claimed invention.

5. Claims 28-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ang. Ang is applied in the same manner as set forth in the Non-Final Rejection mailed on May 18, 2004 (Paragraph 8).

Ang is directed to a method of producing an adhesive laminate comprising the steps of applying a layer of adhesive 16 to a base web 18, and applying a backing layer 14 to the adhesive coated base web, wherein the top of portion of the backing layer defines the top portion of the adhesive laminate (film structure). In this instance, a plurality of scores or cuts having a depth equal to or slightly greater than the thickness of the backing layer are provided. The regions or gaps between the scores are analogous to the "separable surface elements" of the claimed invention. Ang suggests that ordinarily the number of gaps is between 5 and 25 per inch (Column 9, Lines 25-31). While Ang fails to expressly suggest the claimed values for the density of the surface elements, one of ordinary skill in the art at the time of the invention would have found it obvious to include any number of separable surface elements depending on the specific product being manufactured. It is emphasized that the technique of providing cuts in a backing layer and subsequently stretching the laminate to expose the adhesive layer is expressly suggested by Ang- one of ordinary skill in the art would have been

able to appropriately select the number of cuts and thus the number of separable surface elements absent any conclusive showing of unexpected results.

Allowable Subject Matter

6. Claims 1 and 2 are allowed. The reasons for allowance have been previously set forth in the Non-Final Rejection mailed on May 18, 2004 (Paragraph 9).

7. Claims 21, 22, and 25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

8. Applicant's arguments filed August 24, 2004 have been fully considered but they are not persuasive. Applicant has amended claims 18 and 19 to require (i) the separated surface elements do not rejoin to their original position (when the stretch is removed) and (ii) the separated surface elements are formed as islands by multiple sets of cuts at angles to each other.

Regarding (i), the separable surface elements are defined by a continuous backing layer having a plurality of cuts, as best depicted in Figures 1-5. Thus, the original position of said elements is part of a continuous layer that defines the first major surface- after bending or stretching, the separable surface elements are not part of an integral layer but rather are formed as distinct regions separated by a plurality of tear regions or ruptures. It is emphasized that the separable surface elements do not return to their original position after the bending force is removed but rather remain as distinct regions in the top portion of the laminate.

With respect to (ii), Figures 1 and 5 of Ang clearly depict the inclusion of a plurality of incisions or cuts, such that the adjacent regions (to the cuts) can be viewed as islands. It is noted that applicant contends that Ang fails to teach or suggest the intersection of cut lines; however, this argument is not commensurate in scope with the claims as currently drafted- the claims only require a laminate having multiple sets of cuts at angles to each other.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Koskenmaki (US 5,529,829) teaches a film structure in which separable surface elements are arranged on a base layer, wherein said structure is stretched to form the separable surface elements as distinct regions. Hayashi (JP 63106702) is directed to a method of forming a filter structure in which separable surface elements are bonded to a base layer via an adhesive, wherein said structure is stretched to form the separable surface elements as distinct regions.
10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Justin R Fischer** whose telephone number is **(571) 272-1215**. The examiner can normally be reached on M-F (7:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Blaine Copenheaver can be reached on (571) 272-1156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Justin Fischer

November 10, 2004


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